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In re Application of :
KIM et al. :
Application No.: 10/540,919 : DECISION
PCT No.: PCT/KR03/02744 :
Int. Filing Date: 13 December 2003 :
Priority Date: 30 December 2002 :
Attorney Docket No.: Q88281 :
For: ELECTRIC ENERGY STORAGE DEVICE AND :
METHOD OF CHARGING AND DISCHARGING THE SAME:

This is a decision on applicants' submission filed via facsimile transmission on 30 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 December 2003, applicants filed international application PCT/KR03/02744, which designated the United States and claimed a priority date of 30 December 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 June 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the International Application, and an assertion of small entity status.

On 12 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

On 13 March 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by six of the seven joint inventors and a declaration of facts by Lee Si Hyung.

On 29 June 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a).

On 30 March 2007, applicants filed the instant submission which includes, *inter alia*, a copy of an itemized postcard receipt date-stamped by the USPTO and a copy of a declaration of inventors signed by joint inventor Hee-Young Lee. The request that the copy of the declaration of inventors filed 30 March 2007 be accepted as having been filed on 27 October 2006 has been treated as a petition under 37 CFR 1.181.

DISCUSSION

Petition Under 37 CFR 1.181

Applicants have provided sufficient evidence to establish that on 27 October 2006 applicants filed a declaration of the inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 27 October 2006 and which itemizes an "executed Declaration and Power of Attorney" and identifies the above-captioned application number, docket number, and title. Further, practitioner states that the copy of the declaration filed 30 March 2007 is a true copy of the declaration originally filed 27 October 2006. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 30 March 2007 may properly be accepted as originally received in the USPTO on 27 October 2006.

Submission Filed 27 October 2006

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration of inventors filed 27 October 2006 is not in compliance with 37 CFR 1.497(a)-(b). There is a difference in names in the first-named inventor between the published international application (Seong-Min Kim) and the declaration of the inventor (Sung-Min Kim). It is not clear if there was a typographical error in the first name of the inventor as indicated in the international application (an acceptable explanation would be required), or if the inventor has changed his name (a petition under 37 CFR 1.182 (see MPEP § 605.04(c))) would be required), or if a change of inventorship is being made from the inventorship of the application as indicated in the international application (a petition under 37 CFR 1.497(d) would be required).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**.

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Since the reply filed 27 October 2006 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide a proper response in compliance with 37 CFR 1.497(a)-(b). Regarding the name of the first-named inventor, a proper response would be a new oath(s) or declaration(s) properly identifying the first-named inventor (as well as all of the other inventors) and signed by the first-named inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Extensions of time under 37 CFR 1.136(a) are available.

Failure to timely file a proper response will result in **abandonment** of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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